



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

07 JUN 2001 01 JUN 13 PM 1:19

REPLY TO THE ATTENTION OF

WWB-16.J

Paul Leuchner, Chief
Regulatory Branch
U.S. Army Corps of Engineers, Buffalo District
1776 Niagara Street
Buffalo, NY 14207-3199

Re: Public Notice CELRB-CO-R- 2000-02170(1) Barnes Nursery, Inc.

Dear Mr. Leuchner:

The U. S. Environmental Protection Agency has reviewed the individual public notice referenced above for Barnes Nursery, Inc. This application is for an after-the-fact permit to retain 14,100 cubic yards of fill placed on two acres of mudflats in East Sandusky Bay, Erie County Ohio.

Despite the avowed environmental enhancement purposes of the project, State biologists maintain that the fill placed to date under a Nation-wide Permit NWP 27, exceeded permit conditions, and has already harmed the ecosystem of the adjacent Sheldon's Marsh State Nature Preserve (SNP). Some fill was removed April 18, 2001 under an emergency order to prevent further damage to the area.

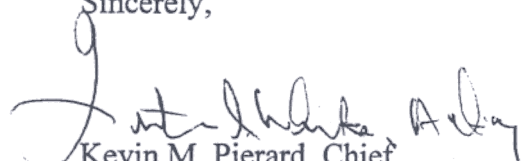
The current request is an attempt to retain and reconfigure the remaining fill, now that the Corp has judged the NWP 27 application to be defective and has withdrawn Mr. Barnes permit, requiring re-permitting or restoration.

In our opinion the proposal and continued presence of the remaining fill will cause and irreversible loss of the ecological factors for which the area was designated as a SNP. Photos clearly show the effect the berm placement has had on siltation patterns in the East Bay.

To repeat what we said in our October 12, 2000 letter the State will likely deny water quality certification of this project based on its impacts to Category 3 wetlands under their protection. Therefore, we recommend that a permit be denied for this work and that fill be removed in its entirety. This should be followed by any additional restorative measure prescribed by the State.

Thank you for the opportunity to provide comments on this project. If you have any questions about this response please contact Wayne Gorski of my staff at the letterhead address or by phone at 312-886-0140.

Sincerely,


Kevin M. Pierard, Chief
Watersheds and Wetlands Branch

cc: Ric Queen, OEPA
Don Povolny, ODNR